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SUBJECT: IMPLEMENTING INDONESIA'S BROADCASTING LAW

REF: JAKARTA 01820

SUMMARY: The visit of the Coordinator of the Office of International Information Programs, Alexander Feldman, was an opportunity to directly engage with the various constituencies in the on-going discussion of the new implementing regulations to the Indonesian Broadcast Law of 2002. In a series of meetings, Mr. Feldman spoke with Sofyan Djalil, Minister of Communication and Information; members of the Indonesian Broadcasting Commission (KPI); members of Parliament who sit on the Commission directly involved in the legislation; senior executives and programs in the broadcasting industry; and journalists and representatives of media NGOs. While the result was reminiscent of the fable of the blind men and the elephant (each group sees the situation very differently) several conclusions emerged:

--While direct foreign broadcasts may be affected, it does not appear that banning foreign news programs is the principal or even a primary goal of the regulations.

--Some media observers saw a developing trend toward the government seeking to reassert control over the media. While some increased control is possible, especially regulation of the airwaves, reforms have gone too far and too deep for any major change in Indonesia's commitment to media freedom.

--The heart of the issue is a dispute over whether the Ministry or the KPI will control the potentially lucrative area of licensing approval.  
END SUMMARY

12. In his discussion of the implementing regulations of the Broadcast Bill of 2002, Minister of Communication and Information Sofyan Djalil stressed that the law sought to put the burden of responsibility for program content on the stations. He emphasized that broadcasters needed to ensure that inflammatory news stories (he cited the Danish cartoon controversy as an example), sadistic violence, and pornography not be allowed on the air. Since it is impossible to monitor directly relayed material, a tape delay is essential to ensure that this sort of material not be broadcast. The minister was vague, however, on just what sort of a delay would be acceptable, merely noting that the details remained to be worked out. He was equally vague on the standards that would be used in determining what was acceptable or unacceptable. Mr. Feldman pointed out that the new regulations were drawing serious criticism in foreign media to the detriment of Indonesia's post-reformasi image of a free and open media. He noted that the free flow of information benefited Indonesia by making world news available to decision makers. He also noted that the idea of a delay had precedent in the region, pointing out that the restrictive model of delays used in Malaysia may not be the best pattern for Indonesia to adopt. The minister again asserted that the highly "professional broadcasters of VOA" had nothing to fear from the new regulations and that

"we will work out the details later, but VOA will not be off the air." At the moment, broadcasters seem to be dealing with the new regulations either by introducing a delay or by simply ignoring the requirement (REF: JAKARTA 01820) and there is no evidence that the new regulations have affected VOA, or other foreign broadcasts that are carried on the airwaves. (Note: The regulations do not/not affect cable or satellite broadcasting).

13. Turning to other aspects of the broadcasting law, Minister Djalil discussed the current dispute between the Indonesian Broadcasting Commission (KPI) and the Ministry over licensing authority. Minister Djalil observed that during the period between the abolition of President Soeharto's all-powerful Ministry of Information and now, the broadcasting industry had been totally without a regulatory body. During that period, broadcast licenses were not renewed and many radio stations sprang up operating without licenses. The minister feels that regaining control of the airwaves is an essential task and expressed his view that the Ministry needs to work with the KPI to ensure a system of checks and balances. Leaving all the decision-making power in the hands of the KPI, would in the minister's view, be dangerous since it would centralize power in the hands of one organization. Seeking to merge the restrictions on foreign direct broadcasts with this dispute over the role of the KPI, Minister Djalil implied that the KPI might be more subject to nationalist sentiment and might even wind up banning all foreign broadcasts from local airwaves. [Comment: This was the first time we have heard this argument raised and it is not what we have been hearing from the KPI or any other media observer.]

14. In a meeting with journalists and representatives of media NGOs, a very different view emerged. Media activist and member of the National Press Council Leo Batubara was outspoken in his assertion that this was the first step in an attempt by the government to recreate the powerful media controls of the Soeharto era. Although the current issue involves a regulation that would affect only one or two foreign broadcasters, whose program content is carried on Indonesian affiliates, leaving satellite and cable untouched, Batubara sees this as first step in a wide effort to throttle Indonesia's free media. In this view, once control is established in this area, the precedent is set for restrictions that would eventually include the crucial issue - the domestic media. While few other observers were willing to go this far, there was general agreement among media activists that the Ministry was trying to undercut the semi-independent KPI, an institution that had been set up in imitation of the U.S. Federal Communications Commission. There was general agreement that the ministry wanted to sideline the commission and that this was driven by a desire to ensure that the ministry would have the important, and profitable, final say on licensing issues. One of the journalists observed that as licenses came up for renewal, the ministry was far more likely to be involved in corruption than the independent KPI.

15. Members of the KPI expressed their gratitude for USG interest in the case when they met with Mr. Feldman. They felt that the implementing regulations, including the idea of a delay on direct broadcasts, were a problem, noting that this has caused VOA's affiliates to drop the interactive portion of the VOA morning program. KPI representatives noted that the ministry is seeking to gain greater control by a) limiting the number of provinces that can be reached by one station, b) issuing new licenses, c) renewing existing licenses, and d) issuing regulations regarding management. Taken together, they constitute an effort to limit media freedom. On the key issue of licensing, KPI member Ade Armando noted that there are a number of stations broadcasting without a license since there were no renewals or new licenses issued during the period when the Ministry of Communications and Information had been disbanded. As a result, there are too many stations for too little bandwidth. Ade recognized that this needs to be changed, but he noted that as the situation is remedied, there will

be competition for airspace and opportunity for bribery. In his view, this is the key reason why the Ministry is so eager to reassert control.

¶16. During meetings with media executives, a similar view of the KPI-Ministry struggle emerged, but the conclusions were different. While all of the stations carry considerable U.S. program material, few carried direct foreign broadcasting (largely news) that would be affected by the new regulations. An official of Trans TV asserted that one concern of the Indonesian parliament was to stop televangelists from putting Indonesia's sometimes fragile inter-religious relationship under stress, an explanation that seems doubtful given that the only evangelical broadcasts are found on cable and satellite TV. For the broadcasters, however, the issue was again licensing; one senior program manager observed that the reason the industry was supporting the ministry in its dispute with the KPI was that they thought it would be easier to deal with the professionals in the ministry who have had experience handling licensing issues than the inexperienced and unpredictable academics who make up most of the KPI.

¶17. The final group to offer its opinion was members of the parliament's (DPR) Commission I. Member Djoko Suslio noted that he was one of the original drafters of the Broadcasting law and that it was written in a deliberate attempt to imitate the U.S. FCC. The parliamentary commission had, just that week, rejected the implementing regulations and was seeking to send the matter to the Constitutional Court. Djoko opined that the ministry was seeking to undo what the parliament had done in setting up an independent body and observed, in agreement with NGO observers, that the ministry is more likely to take bribes than the KPI. The parliament recognizes that the extended period of media anarchy needs to end but Djoko proposes open and transparent auctions of licenses and clear regulations ending the transfer of licenses. He cited several examples of how licenses obtained by one individual are "sold" to media conglomerates for large sums of money. As for foreign broadcasters, members of parliament admitted that they had problems with some of the broadcasts but stressed the need to regulate rather than ban.

¶18. Comment: In the end, as with so many disputes in Indonesia, the key issue in the implementing regulations of the broadcast law is money. Parliament, the NGO community and the KPI line up against the industry and the ministry. At stake is a considerable amount of money to be realized over the sale and renewal of broadcasting licenses. There are, too be sure, other issues and the delay of direct broadcasts is one, but these are secondary issues. Like many laws, this one has a bit of something for everyone, and while there may be some who would like to turn the clock back to the Soeharto era, there is little indication that this can or will happen. As for VOA and BBC broadcasts, these will most likely be dealt with through an "Indonesian" solution that will allow broadcasts to continue with what we hope will be minimal disruption.

PASCOE